



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,103	02/26/2004	Youichi Sakurai	1341.1189	4254

21171 7590 11/09/2007
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

KEEHN, RICHARD G

ART UNIT	PAPER NUMBER
----------	--------------

4121

MAIL DATE	DELIVERY MODE
-----------	---------------

11/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/786,103	SAKURAI, YOUICHI	
	Examiner	Art Unit	
	Richard G. Keehn	4121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/26/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/26/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-18 have been examined and are pending.

Specification

1. The disclosure is objected to because of the following informalities:

- Page 16, line 20 cites step "S801", which should read "S805."
- The "Yes" path for S805 is not described in the specification.
- The "No" path for S807 is not described in the specification.

Appropriate correction is required.

Drawings

2. The drawings are objected to because of the anomalies described below.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

Art Unit: 4121

must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

- Figure 8 – arrow below element S802 should not be present, as S805 does not execute until the acknowledgement in S803 is complete. Similarly, the arrow from S803 to S805 should be direct and unbroken.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4, 5, 8, 10, 11, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,785,786 B1 (Gold et al.).

Art Unit: 4121

As to Claim 1, Gold et al. teach a data backup device connected to a server via a network (Gold et al. – Column 3, lines 58-64 recite a tape drive connected to a server via a network; Figure 1 illustrates the connection between item 140, tape drive, and item 130m, server, via item 120, LAN), comprising:

a usable band detector that detects a width of a usable band from an available band of the network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available); and

a backup controller that determines whether the width of the usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth by the backup apparatus to determine if a sufficient amount of usable bandwidth is available), and

transmits data of a client to the server through the network to store the data as backup data in the server when the usable band is determined to be wider than the predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient).

As to Claim 4, Gold et al. teach the data backup device according to claim 1, further comprising a data restoring unit that receives an initial state restore request from a user to restore data of an initial state of the client (Gold et al. – Column 8, lines 54-57 recites a user request to restore an earlier version of a file),

Art Unit: 4121

requests the server to transmit a difference between the backup data and an initial state master data both stored in the server (Gold et al. – Column 8, lines 59-64 recite that the difference is requested, identified and sent to the client storage; line 21 recites that the different versions reside on the backup apparatus), and

receives the difference from the server to restore the difference to the client (Gold et al. – Column 8, lines 59-64 recite that the difference is requested, identified and sent to the client storage).

As to Claim 5, Gold et al. teach the data backup device according to claim 1, further comprising:

a distribution specifying unit that receives distribution information from a user and transmits the distribution information to the server (Gold et al. – Column 8, lines 42-64 recite that the user's target location is specified by the Restore Module),

wherein the distribution information specifies distributed data to be distributed from the backup data stored in the server to another client via the network (Gold et al. – Column 8, lines 42-64 recite the coordination between the Restore Module, which specifies the target client on the network, and BDF, which specifies the backup data stored in the server),

a time at which the distributed data is to be distributed (Gold et al. – Column 8, lines 42-58 indicate that the time at which the distributed data is to be distributed is when the user invokes a restore request), and

Art Unit: 4121

a destination to which the distributed data is to be distributed (Gold et al. – Column 8, lines 63-64 recite that the client storage destination location is specified).

As to Claim 8, Gold et al. teach a data backup method comprising:

detecting a width of usable band from an available band of a network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

determining whether the width of usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available); and

transmitting data of a client to a server through the network to store the data as backup data in the server when the width of usable band is determined to be wider than the predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient).

As to Claim 10, Gold et al. teach a computer readable recording medium that stores a computer program including computer executable instructions (Gold et al. – Column 4, lines 32-39 includes computer readable recording medium, program and execution) which when executed by a computer, cause the computer to perform:

detecting a width of usable band from an available band of a network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

Art Unit: 4121

determining whether the width of usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available); and

transmitting data of a client to a server through the network to store the data as backup data in the server when the width of usable band is determined to be wider than the predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient).

As to Claim 11, Gold et al. teach a data backup system comprising:

a server (Gold et al. – Figure 2 displays the use of a server); and

a data backup device connected to the server via a network (Gold et al. – Column 4, lines 32-39 includes computer readable recording medium, program and execution), and

including a usable band detector that detects a width of usable band from an available band of the network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available),

a backup controller that determines whether the width of usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available), and

a transmitter that transmits data through the network to the server to store the data in the server as backup data when the backup controller determines the width of

Art Unit: 4121

usable band to be wider than the predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient).

As to Claim 15, Gold et al. teach the data backup system according to claim 11, further comprising a client connected to the network, the client including the backup device (Gold et al. – Figure 1 shows item 140, a backup system, connected to item 130a, a server. Column 4, lines 20-25 recite that the term “client” can also refer to a server in a network environment).

As to Claim 17, Gold et al. teach the data backup system according to claim 15, wherein the server comprises an initial state storage unit that stores initial state master data of the client (Gold et al. – Column 8, lines 54-63 recites a user request to restore an earlier version of a file. This is achieved through the use of the DTF and BDF, which allows a user to capture a state in time. Since that state is retrievable, and a “master” is user defined, a “master” or previous copy must exist in order to restore back to that version. Hence, the initial state master data of the client is stored), and

the data backup device further comprises a data restoring unit that receives an initial state restore request from a user to restore data of an initial state of the client (Gold et al. – Column 8, lines 54-57 recites a user request to restore an earlier version of a file), and

Art Unit: 4121

requests the server to transmit a difference between the backup data and the initial state master data (Gold et al. – Column 8, lines 54-57 recites the DTF being used to identify the differences between backup versions), and

receives the difference from the server to restore the difference to the client (Gold et al. – Column 8, lines 59-64 recites the difference being determined and said difference is sent to the client).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,785,786 B1 (Gold et al.) as applied to claim 1 above, and further in view of US 2002/0000464 A1 (Ramberg et al.) and US 2003/0046270 A1 (Leung et al.).

As to Claim 2, Gold et al. teach the data backup device according to claim 1, further comprising:

Art Unit: 4121

a data restoring unit that receives a request from a user of the client (Gold et al. – Column 8, lines 61-64 recite the user's restore request), and

based on the request (Gold et al. – Column 8, lines 61-64 recite the user's restore request), and

requests the server to transmit the backup data of the type determined (Gold et al. – Column 8, lines 61-64 recite the user's restore request), and

receives the backup data of the type transmitted from the server (Gold et al. – Column 8, lines 61-64 recite the data being copied from the backup apparatus), and

restores to the client the backup data of the type received (Gold et al. – Column 8, lines 61-64 recite the sending of data, once found, to the client).

Gold et al. do not teach, but Ramberg et al. teach a data identifying unit that identifies a type of data selected from a plurality of types for each of the data stored in the client (Ramberg et al. – Page 6, paragraph 0050 recites that the intelligent data routing mechanism determines data types), and

determines a type of backup data to be obtained from the backup data stored in the server according to the type (Ramberg et al. – Page 6, paragraph 0050 recites that the intelligent data routing mechanism determines data types),

Gold et al. do not teach, but Leung et al. teach wherein the backup controller specifies the type of each of the data identified when transmitting each of the data to the server (Leung et al. – Page 1, paragraph 0012 recites the invention determines storage locations based upon characteristics of the data to be stored); and

the type of backup data being one of the types (Leung et al. – Page 1, paragraph 0012 recites the invention determines storage locations based upon characteristics of the data to be stored. That said, the backup data having been stored according to type, will be inclusive of one of the types).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the data type identification and determination method taught by Ramberg et al., with a data restoring unit that receives a request from a user of the client, and based on the request, requests the server to transmit the backup data of the type determined, and receives the backup data of the type transmitted from the server, and restores to the client the backup data of the type received taught by Gold et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to intelligently route data based on data type (Ramberg et al. – Page 1, paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method wherein the backup controller specifies the type of each of the data identified when transmitting each of the data to the server, and the type of backup data being one of the types taught by Leung et al., with a data restoring unit that receives a request from a user of the client, and based on the request, requests the server to transmit the backup data of the type determined, and receives the backup data of the type transmitted from the server, and restores to the client the backup data of the type received taught by Gold et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide methods to control increasingly popular heterogeneous storage environments (Leung et al. – Page 1, paragraphs 0007 and 0008).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Combination of Gold et al., Ramberg et al. and Leung et al. as applied to claim 2 above, and further in view of US 2005/0010913 A1 (Chen) and US 7,272,133 B2 (Valin et al.).

As to Claim 3, the combination of Gold et al., Ramberg et al., and Leung et al. teach the data backup device according to claim 2, wherein the types are user data (Gold, Column 8, lines 54-58 recite user specifying which archive to restore, hence this archive would be user data), and

other data (Gold et al. – Column 7, lines 17-18 recite the classification and use of database data).

The combination of Gold et al., Ramberg et al., and Leung et al. does not teach, but Chen teaches operating system setting data (Chen - Page 1, paragraphs 0006 and 0007 recite the classification and use of operating system settings data)

The combination of Gold et al., Ramberg et al., and Leung et al. does not teach, but Valin et al. teach application information (Valin et al. - Column 4, lines 37-38 recite the classification and use of application data),

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine operating system data manipulation taught by Chen,

Art Unit: 4121

with the data types taught by the combination of Gold et al., Ramberg et al., and Leung et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to reduce the need for manual manipulation of operating system data when new users are added (Chen, Page 1, paragraphs 0007 and 0008)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine application information manipulation taught by Valin et al., with the data types taught by the combination of Gold et al., Ramberg et al., and Leung et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to manipulate application data to avoid manual coding (Valin et al. – Column 1, lines 40-43).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,785,786 B1 (Gold et al.), and further in view of US 2003/0229653 A1 (Nakanishi et al.).

As to Claim 6, Gold et al. teach a backup data management device connected to a client via a network (Gold et al. – Column 3, lines 58-64 recite a tape drive connected to a server via a network; Figure 1 illustrates the connection between item 140, tape drive, and item 210a, server, via item 120, LAN), comprising:

Art Unit: 4121

a backup data storage unit that stores data received from the client through the network as backup data (Gold et al. – Figure 1 shows item 140, a backup data storage unit, connected to item 110a, a Client, via item 120, a LAN), and

a data distributing unit that distributes data specified by the client from the backup data to a destination (Gold et al. – Column 8, lines 63-64 recite that the client storage destination location is specified).

Gold et al. do not teach, but Nakanishi et al. teach at a time both specified by the client (Nakanishi et al. – Page 1, paragraph 0020 recites the determination and scheduling of a restore operation).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the data restoration scheduling method taught by Nakanishi et al., with a backup data management device connected to a client via a network, comprising: a backup data storage unit that stores data received from the client through the network as backup data, and a data distributing unit that distributes data specified by the client from the backup data to a destination taught by Gold et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to automat the restoration process to reduce the human burden. (Nakanishi et al. – Page 1, paragraph 0003)

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of US 6,785,786 B1 (Gold et al.) and US 2003/0229653 A1 (Nakanishi et

Art Unit: 4121

al.) as applied to claim 6 above, and further in view of US 2002/0000464 A1 (Ramberg et al.).

As to Claim 7, the combination of Gold et al. and Nakanishi et al. teach the backup data management device according to claim 6, wherein the backup data storage unit (Gold et al. – Figure 1 shows item 140, a backup data storage unit).

The combination of Gold et al. and Nakanishi et al. does not teach, but Ramberg et al. teach classifying each of the data according to a type specified by the client (Ramberg et al. – Page 1, paragraph 0006 recites the ADC intelligently routing data based on a plurality of types, which means it determines the data type and classifies said data into types).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine classifying each of the data according to a type specified by the client taught by Ramberg et al., with a backup data management device connected to a client via a network, comprising: a backup data storage unit that stores data received from the client through the network as backup data, and a data distributing unit that schedules and distributes data specified by the client from the backup data to a destination taught by the combination of Gold et al and Nakanishi et al.

Art Unit: 4121

One of ordinary skill in the art at the time the invention was made would have been motivated to intelligently route data based on data type (Ramberg et al. – Page 1, paragraph 0006).

8. Claims 9, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,785,786 B1 (Gold et al.) as applied to claims 8, 11 and 12 respectively, and further in view of US 2002/0000464 A1 (Ramberg et al.).

As to Claim 9, Gold et al. teach the data backup method according to claim 8, and teach further comprising:

receiving a request from a user of the client (Gold et al. – Column 8, lines 61-64 recite the user's restore request); and

based on the request (Gold et al. – Column 8, lines 61-64 recite the user's restore request), and

requesting the server to transmit the backup data of the type determined (Gold et al. – Column 8, lines 61-64 recite the user's restore request); and

receiving the backup data of the type transmitted from the server (Gold et al. – Column 8, lines 61-64 recite the data being copied from the backup apparatus); and

restoring to the client the backup data of the type received (Gold et al. – Column 8, lines 61-64 recite the sending of data, once found, to the client).

Gold et al. do not teach, but Ramberg et al. teach identifying a type of data selected from a plurality of types for each of the data stored in the client (Ramberg et al.

Art Unit: 4121

– Page 1, paragraph 0006 recites the ADC intelligently routing data based on a plurality of types); and

specifying the type of each of the data identified when transmitting each of the data to the server (Ramberg et al. – Page 6, paragraph 0050 recites that the intelligent data routing mechanism determines data types); and

determining a type of backup data to be obtained from the backup data stored in the server according to the type (Ramberg et al. – Page 6, paragraph 0050 recites that the intelligent data routing mechanism determines data types), and

the type of backup data being one of the types (Ramberg et al. – Page 6, paragraph 0050 recites that the intelligent data routing mechanism determines data types. Since the data is stored by type, the backup data would be one of the types);

The motivation and obviousness arguments for determining, storing and retrieving according to data type are the same as in Claim 2.

As to Claim 12, Gold et al. teach the data backup system according to claim 11, further comprising a memory unit that stores the data (Gold et al. – Figure 2 contains a memory unit that stores data in item 240), and

the transmitter transmits each of the data to the server (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient).

Gold et al. do not teach, but Ramberg et al. teach wherein the data backup device further comprises a data identifying unit that identifies a type of data selected from a plurality of types for each of the data stored in the memory unit (Ramberg et al. –

Art Unit: 4121

Page 1, paragraph 0006 recites the ADC intelligently routing data based on a plurality of types), and

according to the type identified by the data identifying unit (Ramberg et al. –

Page 1, paragraph 0006 recites the ADC intelligently routing data based on a plurality of types).

The motivation and obviousness arguments for determining, storing and retrieving according to data type are the same as in Claim 2.

As to Claim 13, the combination of Gold et al. and Ramberg et al. teaches the data backup system according to claim 12, wherein the data backup device further comprises a data restoring unit that receives a request from a user (Gold et al. – Column 8, lines 61-64 recite the user's restore request),

determines a type of backup data to be obtained from the backup data stored (Ramberg et al. – Page 6, paragraph 0050 recites that the intelligent data routing mechanism determines data types.),

based on the request (Gold et al. – Column 8, lines 61-64 recite the user's restore request), and

the type being one of the types (Ramberg et al. – Page 6, paragraph 0050 recites that the intelligent data routing mechanism determines data types. Since the data is stored by type, the backup data would be one of the types), and

requests the server to transmit the backup data of the type determined (Gold et al. – Column 8, lines 61-64 recite the user's restore request),

Art Unit: 4121

receives the backup data of the type transmitted (Gold et al. – Column 8, lines 61-64 recite the data being copied from the backup apparatus),

and restores to the memory unit the backup data of the type received (Gold et al. – Column 8, lines 61-64 recite the sending of data, once found, to the client).

The motivation and obviousness arguments for determining, storing and retrieving according to data type are the same as in Claim 2.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gold et al. and Ramberg et al. as applied to claim 12 above, and further in view of US 2005/0010913 A1 (Chen) and US 7,272,133 B2 (Valin et al.).

As to Claim 14, the combination of Gold et al. and Ramberg et al. teaches the data backup system according to claim 12, wherein the types are user data (Gold, Column 8, lines 54-58 recite user specifying which archive to restore, hence this archive would be user data),

other data (Gold et al. – Column 7, lines 17-18 recite the classification and use of database data).

The combination of Gold et al. and Ramberg et al. does not teach, but Chen teaches operating system setting data (Chen - Page 1, paragraphs 0006 and 0007 recite the classification and use of operating system settings data).

Art Unit: 4121

The combination of Gold et al. and Ramberg et al. does not teach, but Valin teaches application information (Valin et al. - Column 4, lines 37-38 recite the classification and use of application data).

The motivation and obviousness arguments for applying Chen and Valin et al. are the same as in Claim 3.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gold et al. and Ramberg et al. as applied to claim 12 above, and further in view of US 2003/0046270 A1 (Leung et al.).

As to Claim 16, the combination of Gold et al. and Ramberg et al. teaches claim 12. The combination of Gold et al. and Ramberg et al. does not teach, but Leung et al. teach wherein the server comprises a backup data storage unit that stores, as the backup data, each of the data transmitted from the backup controller according to the type (Leung et al. - Page 1, paragraph 0012 recites the invention determines storage locations based upon characteristics of the data to be stored).

The motivation and obviousness arguments for applying Leung et al. are the same as in Claim 2.

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gold et al. as applied to claim 15 above, and further in view of Non-Patent literature from

Art Unit: 4121

PowerQuest on their DataKeeper product (PowerQuest) and US 2003/0229653 A1 (Nakanishi et al.).

As to Claim 18, Gold et al. teach claim 15. Gold et al. do not teach, but PowerQuest teaches wherein the client further comprises a distribution specifying unit that receives distribution information from a user and transmits the distribution information to the server (PowerQuest, Page 10 describes the user interface used to define restoration variables including which backed up files to transfer and to which destinations), and

the distribution information that specifies distributed data to be distributed from the backup data stored in the server to another client via the network (PowerQuest, Page 10 - the image shows a networked environment through the recitation of "Backup Of D", "Backup Of E", etc.), and

a destination to which the distributed data is to be distributed (PowerQuest, Page 10 describes the user interface used to define restoration variables including which backed up files to transfer and to which destinations), and

the server further comprises a data distributing unit that distributes the distributed data from the backup data to the destination (PowerQuest, Page 10 describes the user interface used to define restoration variables including which backed up files to transfer and to which destinations. Clicking Restore begins the transfer).

Gold et al. do not teach, but Nakanishi et al. teach a time at which the distributed data is to be distributed (Nakanishi et al. – Page 1, paragraph 0020 recites the determination and scheduling of a restore operation), and

at the time based on the distribution information (Nakanishi et al. – Page 1, paragraph 0020 recites the determination and scheduling of a restore operation).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the data restoration scheduling method taught by Nakanishi et al., with a client connected to the network, the client including the backup device taught by Gold et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to automat the restoration process to reduce the human burden. (Nakanishi et al. – Page 1, paragraph 0003)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method wherein the client further comprises a distribution specifying unit that receives distribution information from a user and transmits the distribution information to the server, and the distribution information that specifies distributed data to be distributed from the backup data stored in the server to another client via the network, and a destination to which the distributed data is to be distributed, and the server further comprises a data distributing unit that distributes the distributed data from the backup data to the destination taught by PowerQuest, with a client connected to the network, the client including the backup device taught by Gold et al.

Art Unit: 4121

One of ordinary skill in the art at the time the invention was made would have been motivated to provide an easy way to perform secure, automated backups and flexible restorations (PowerQuest, Page 2).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These include:

- US 2006/0178889 A1 – Method and System for Performing Electronic Commerce
- US 2003/0115295 A1 – High Performance Client/Server Editor
- US 2002/0164998 A1 – System and Method for Providing Position-Based Information to a User of a Wireless Device
- US 2003/0188318 A1 – IP-Based Video-On-Demand System with Anti-Piracy Capabilities
- US 6,948,039 B2 – Data Backup and Restoration Using Dynamic Virtual Storage
- US 2004/0131076 A1 – Selectively Receiving Broadcast Data According to One of Multiple Data Configurations
- US 2003/0221165 A1 – System and Method for Metadata-Driven User Interface

Art Unit: 4121

- US 2003/0074460 A1 – Proprietary Protocol for Communicating Network Variables on a Control Network
- US 2004/0216122 A1 – Method for Routing Data Through Multiple Applications
- US 5,673,381 – System and Parallel Streaming and Data Stripping to Back-Up a Network.

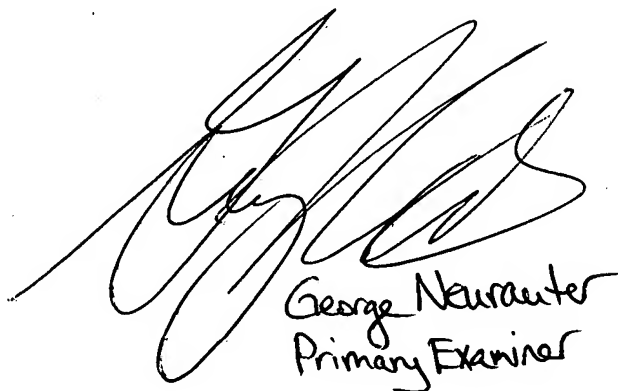
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G. Keehn whose telephone number is 571-270-5007. The examiner can normally be reached on Monday through Thursday, 7:30am - 6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Taghi Arani can be reached on 571-272-3787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4121

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RGK
10/29/2007



George Neuraeter
Primary Examiner